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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KOBUS PAULSEN, CHRISTOPHER D. THOM, IAN HUGHES,
and MARK HOLLAND

Appeal 2018-005089
Application 13/485,228¹
Technology Center 3600

Before MARC S. HOFF, JASON J. CHUNG, STEVEN M. AMUNDSON,
Administrative Patent Judges.

HOFF, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134 from a Final Rejection of claims 1–23. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellant’s invention is a system and method for monitoring users over one or more websites. A processor and memory are configured to receive transaction information from the one or more websites, the transaction information comprising one or more attributes identifying

¹ Appellant states that the real party in interest is UC Group Limited. App. Br. 3.

behavior related to the plurality of users engaging in transaction activities on the websites. The processor then determines norms of behavior based on the transaction information; compares the attributes for each individual user against the norms of behavior; identifies potential problem users who have one or more attributes diverge from the norms of behavior; saves information on those potential problem users to the memory; compares the attributes to identify similarities which could indicate potential problem users; and transmits information on the potential problem users to the one or more websites. Spec. ¶ 11.

Claim 1 is reproduced below:

1. A system for monitoring a plurality of users over one or more websites, the one or more websites being independent of each other, the system comprising:
a memory; and
at least one processor configured to:
 - (a) receive transaction information from the one or more websites for the plurality of users, the transaction information comprising one or more attributes identifying behaviors related to the plurality of users engaging in transaction activities on the one or more websites;
 - (b) associate the transaction information with corresponding users such that the transaction information associated with an individual user reflects the individual user's behavior across the one or more websites;
 - (c) after receiving the transaction information:
 - (1) automatically determine norms of behavior for a new user engaging in transaction activities on the one or more websites based on the transaction information, the norms of behavior being determined based at least in part upon an analysis of the one or more attributes identifying behavior for each of two or more of the plurality of users, wherein the each of two or more of the plurality of users are independent of said new user;

- (2) automatically compare the one or more attributes from the transaction information for each individual user of the plurality of users and the new user against the norms of behavior;
- (3) identify whether the new user and any individual users of the plurality of users are potentially problem users, the potentially problem users comprising each individual user who has at least one attribute diverge from the norms of behavior;
- (4) save information on the potentially problem users in the memory, the information comprising information on the at least one diverging attribute for each individual user;
- (5) automatically compare the attributes of the transaction information with the attributes of the transaction information of confirmed problem users and identify similarities which could indicate potentially problem users and save such information in the memory; and
- (6) automatically generate and transmit electronic instructions to the one or more websites indicating whether the new user and/or any individual users of the plurality of users have been identified as a potential problem user, said electronic instructions being configured to automatically, upon execution thereof, prevent further utilization of the one or more websites by the identified potential problem users.

App. Br. 36–37 (Claims Appendix).

Claims 1–23 stand rejected under 35 U.S.C. § 101 as being directed to patent-ineligible subject matter. Non-Final Act. 3.

Throughout this decision, we make reference to the Appeal Brief (“App. Br.,” filed September 28, 2017), the Non-Final Action (“Non-Final

Act.,” mailed April 6, 2017) and the Examiner’s Answer (“Ans.,” mailed February 16, 2018) for their respective details.

ISSUES

1. Does the claimed invention recite an abstract idea?
2. Is the recited abstract idea integrated into a practical application?
3. Do the claims recite additional elements that transform the nature of the claims into a patent-eligible application of an abstract idea?

PRINCIPLES OF LAW

An invention is patent eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. However, the Supreme Court has long interpreted 35 U.S.C. § 101 to include implicit exceptions: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *See, e.g., Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014).

In determining whether a claim falls within an excluded category, we are guided by the Supreme Court’s two-step framework, described in *Mayo* and *Alice*. *Id.* at 217–18 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–77 (2012)). In accordance with that framework, we first determine what concept the claim is “directed to.” *See Alice*, 573 U.S. at 219 (“On their face, the claims before us are drawn to the concept of intermediated settlement, *i.e.*, the use of a third party to mitigate settlement risk.”); *see also Bilski v. Kappos*, 561 U.S. 593, 611 (2010) (“Claims 1 and 4 in petitioners’ application explain the basic concept of hedging, or protecting against risk.”).

Concepts determined to be abstract ideas, and thus patent ineligible, include certain methods of organizing human activity, such as fundamental economic practices (*Alice*, 573 U.S. at 219–20; *Bilski*, 561 U.S. at 611); mathematical formulas (*Parker v. Flook*, 437 U.S. 584, 594–95 (1978)); and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 69 (1972)). Concepts determined to be patent eligible include physical and chemical processes, such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 192 (1981)); “tanning, dyeing, making waterproof cloth, vulcanizing India rubber, smelting ores” (*id.* at 184 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (1854))); and manufacturing flour (*Benson*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

In *Diehr*, the claim at issue recited a mathematical formula, but the Supreme Court held that “[a] claim drawn to subject matter otherwise statutory does not become nonstatutory simply because it uses a mathematical formula.” *Diehr*, 450 at 176; *see also id.* at 192 (“We view respondents’ claims as nothing more than a process for molding rubber products and not as an attempt to patent a mathematical formula.”). Having said that, the Supreme Court also indicated that a claim “seeking patent protection for that formula in the abstract . . . is not accorded the protection of our patent laws, . . . and this principle cannot be circumvented by attempting to limit the use of the formula to a particular technological environment.” *Id.* (citing *Benson* and *Flook*); *see, e.g., id.* at 187 (“It is now commonplace that an *application* of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection.”).

If the claim is “directed to” an abstract idea, we turn to the second step of the *Alice* and *Mayo* framework, where “we must examine the elements of the claim to determine whether it contains an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Alice*, 573 U.S. at 221 (quotation marks omitted). “A claim that recites an abstract idea must include ‘additional features’ to ensure ‘that the [claim] is more than a drafting effort designed to monopolize the [abstract idea].’” *Id.* (quoting *Mayo*, 566 U.S. at 77). “[M]erely requir[ing] generic computer implementation[] fail[s] to transform that abstract idea into a patent-eligible invention.” *Id.*

In January 2019, the PTO published revised guidance on the application of § 101. USPTO’s January 7, 2019 Memorandum, *2019 Revised Patent Subject Matter Eligibility Guidance* (“Memorandum”). 84 Fed. Reg. 50. Under that guidance, we first look to whether the claim recites:

- (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity such as a fundamental economic practice, or mental processes); and
- (2) additional elements that integrate the judicial exception into a practical application (*see* MPEP § 2106.05(a)–(c), (e)–(h)).

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then look to whether the claim:

- (3) adds a specific limitation beyond the judicial exception that

are not “well-understood, routine, conventional” in the field
(*see* MPEP § 2106.05(d)); or
(4) simply appends well-understood, routine, conventional
activities previously known to the industry, specified at a high
level of generality, to the judicial exception.

See Memorandum.

ANALYSIS

SECTION 101 REJECTION

Representative claim 1 recites the following limitations.

1. A system for monitoring a plurality of users over one or more
websites, the one or more websites being independent of each other, the
system comprising:

a memory; and

at least one processor configured to:

(a) receive transaction information from the one or more
websites for the plurality of users, the transaction information
comprising one or more attributes identifying behaviors related to
the plurality of users engaging in transaction activities on the one
or more websites;

(b) associate the transaction information with corresponding
users such that the transaction information associated with an individual
user reflects the individual user’s behavior across the one or more
websites;

(c) after receiving the transaction information:

(1) automatically determine norms of behavior for a new user engaging in transaction activities on the one or more websites based on the transaction information, the norms of behavior being determined based at least in part upon an analysis of the one or more attributes identifying behavior for each of two or more of the plurality of users, wherein the each of two or more of the plurality of users are independent of said new user;

(2) automatically compare the one or more attributes from the transaction information for each individual user of the plurality of users and the new user against the norms of behavior;

(3) identify whether the new user and any individual users of the plurality of users are potentially problem users, the potentially problem users comprising each individual user who has at least one attribute diverge from the norms of behavior;

(4) save information on the potentially problem users in the memory, the information comprising information on the at least one diverging attribute for each individual user;

(5) automatically compare the attributes of the transaction information with the attributes of the transaction information of confirmed problem users and identify similarities which could indicate potentially problem users and save such information in the memory; and

(6) automatically generate and transmit electronic instructions to the one or more websites indicating whether the new user and/or any individual users of the plurality of users have been identified as a potential problem user, said electronic instructions being configured to automatically, upon execution thereof, prevent further utilization of the one or more websites by the identified potential problem users.

These limitations, under the broadest reasonable interpretation, constitute a plurality of steps to monitor users on one or more websites, identify whether a user is potentially a problem user based on analysis of a number of attributes, and prevent further utilization of the website(s) by the identified potential problem user(s).

We determine that limitation (a) corresponds to the gathering of data (“receiving transaction information”). We determine that limitations (c)(4) and (c)(6) constitute post-solution activity: saving information on the potentially problem users in the memory, and transmitting to one or more websites the conclusion that one or more users have been identified as potential problem users, respectively.

The Memorandum recognizes that certain groupings of subject matter have been determined by the courts to constitute judicially excepted abstract ideas: (a) mathematical concepts, (b) certain methods of organizing human activity, and (c) mental processes. Memorandum, 84 Fed. Reg. at 52. If a claim, under its broadest reasonable interpretation, covers performance in the mind but for the recitation of generic computer components, then it is still in the mental-processes category unless the claim cannot practically be

performed in the mind.² We determine that the claim steps beyond those directed to extra-solution activity (i.e., gathering, display, or storage of data)

² See *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307, 1318 (Fed. Cir. 2016) (“[W]ith the exception of generic computer implemented steps, there is nothing in the claims themselves that foreclose them from being performed by a human, mentally or with pen and paper.”); *Mortg. Grader, Inc. v. First Choice Loan Servs. Inc.*, 811 F.3d 1314, 1324 (Fed. Cir. 2016) (holding that computer-implemented method for “anonymous loan shopping” was an abstract idea because it could be “performed by humans without a computer”); *Versata Dev. Grp. v. SAP Am., Inc.*, 793 F.3d 1306, 1335 (Fed. Cir. 2015) (“Courts have examined claims that required the use of a computer and still found that the underlying, patent-ineligible invention could be performed via pen and paper or in a person’s mind.”); *CyberSource Corp. v. Retail Decisions, Inc.*, 654 F.3d 1366, 1375, 1372 (Fed. Cir. 2011) (holding that the incidental use of “computer” or “computer readable medium” does not make a claim otherwise directed to process that “can be performed in the human mind, or by a human using a pen and paper” patent eligible); *id.* at 1376 (distinguishing *Research Corp. Techs. v. Microsoft Corp.*, 627 F.3d 859 (Fed. Cir. 2010), and *SiRF Tech., Inc. v. Int’l Trade Comm’n*, 601 F.3d 1319 (Fed. Cir. 2010), as directed to inventions that “could not, as a practical matter, be performed entirely in a human’s mind”). *Mayo*, 566 U.S. at 71 (“[M]ental processes[] and abstract intellectual concepts are not patentable, as they are the basic tools of scientific and technological work” (quoting *Benson*, 409 U.S. at 67)); *Flook*, 437 U.S. at 589 (same); *Benson*, 409 U.S. at 67, 65 (noting that the claimed “conversion of [binary-coded decimal] numerals to pure binary numerals can be done mentally,” i.e., “as a person would do it by head and hand.”); *Synopsys, Inc. v. Mentor Graphics Corp.*, 839 F.3d 1138, 1139, (Fed. Cir. 2016) (holding that claims to the mental process of “translating a functional description of a logic circuit into a hardware component description of the logic circuit” are directed to an abstract idea, because the claims “read on an individual performing the claimed steps mentally or with pencil and paper”); *In re BRCA1 & BRCA2-Based Hereditary Cancer Test Patent Litig.*, 774 F.3d 755, 763 (Fed. Cir. 2014) (concluding that concept of “comparing BRCA sequences and determining the existence of alterations” is an “abstract mental process”); *In re Brown*, 645 F. App’x 1014, 1017 (Fed. Cir. 2016) (non-precedential) (claim limitations “encompass the mere

— limitation (b), associating transaction information with corresponding users; limitation (c)(1), automatically determining norms of behavior for a new user engaging in transaction activities; limitation (c)(3), identifying whether a new user and any individual users are potentially problem users; and limitation (c)(5), automatically comparing attributes of transaction information with attributes of confirmed problem users to identify similarities which could indicate potential problem users, constitute steps that may be performed in the mind, but for the recitation of generic computer components.

We agree with the Examiner and determine the limitations at issue to be analogous to those at issue in *Intellectual Ventures I LLC v. Symantec Corp.*, 838 F.3d 1307 (Fed. Cir. 2016). The representative claim in *Intellectual Ventures* recited, in pertinent part, “receiving, on a processing system, file content identifiers for data files from a plurality of file content identifier generator agents, each agent provided on a source system and creating file content IDs using a mathematical algorithm, via a network; determining, on the processing system, whether each received content identifier matches a characteristic of other identifiers; and outputting, to at least one of the source systems responsive to a request from said source system, an indication of the characteristic of the data file based on said step of determining.” *Intellectual Ventures*, 838 F.3d at 1313. The Federal Circuit analogized the claim at issue to the practice of looking at paper mail

idea of applying different known hair styles to balance one’s head. Identifying head shape and applying hair designs accordingly is an abstract idea capable, as the Board notes, of being performed entirely in one’s mind”).

envelopes and discarding certain letters, without opening them, from sources from which they did not wish to receive mail based on characteristics of the mail. *Id.* at 1314. The court found that “[t]he list of relevant characteristics could be kept in a person’s head.” *Id.*

The *Intellectual Ventures I* court further analogized the claim to *Content Extraction & Transmission LLC v. Wells Fargo Bank, N.A.*, 776 F.3d 1343 (Fed. Cir. 2014), a case in which the court found that the claims “are drawn to the abstract idea of 1) collecting data, 2) recognizing certain data within the collected data set, and 3) storing that recognized data in a memory,” and determined that “humans have always performed these functions . . . [and] [b]anks have, for some time, reviewed checks, recognized relevant data . . . and stored that information in their records.” *Content Extraction*, 776 F.3d at 1347.

With reference to the invention under appeal, we determine that the steps of *associating transaction information with corresponding users*, and *of comparing attributes from transaction information against norms of behavior in order to identify potential problem users*, may be performed mentally by a person deciding which users should be classified as potential problem users. We further determine that identifying one or more users as potential problem users, and informing others of that identification decision, may be performed mentally by a human being, with the further involvement of generic computer components.

Appellant argues that the claimed invention is not directed to an abstract idea because “tangible near real-time action is taken . . . such that those being identified as a potential problem user are prevented from further utilization of the one or more websites,” preventing “any fraudulent or

problematic use of the websites,” which “avoids undue costs and/or difficulties that might otherwise be incurred by the one or more websites if such information were not so timely, accurately, and efficiently provided.” App. Br. 26–27. This argument is not persuasive because Appellant has not established that the claimed invention amounts to a specific asserted improvement in computer functionality. *Enfish LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016). Rather, we determine instead that the focus of the claims is a process that qualifies as an abstract idea, for which computers are invoked merely as a tool. *Id.* at 1336.

Accordingly, we conclude that the claims recite a mental process, one of the categories of abstract ideas recognized in the Memorandum. 84 Fed. Reg. at 52. We, thus, conclude that the claims recite an abstract idea.

INTEGRATED INTO A PRACTICAL APPLICATION

We next evaluate whether the claims integrate the identified abstract idea of comparing attributes from transaction information against norms of behavior, in order to identify users who diverge from such norms as potential problem users, into a practical application. *See* Memorandum, 84 Fed. Reg. at 51. We consider whether there are any additional elements beyond the abstract ideas that, individually or in combination, “integrate the [abstract ideas] into a practical application, using one or more of the considerations laid out by the Supreme Court and the Federal Circuit.” *Id.* at 54–55.

The Memorandum provides exemplary considerations that are indicative that an additional element may have integrated the exception (i.e., the abstract idea recited in the claim) into a practical application:

- (i) an improvement to the functioning of a computer;
- (ii) an improvement to another technology or technical field;
- (iii) an application of the abstract idea with, or by use of, a particular machine;
- (iv) a transformation or reduction of a particular article to a different state or thing; or
- (v) other meaningful limitations beyond generally linking the use of the abstract idea to a particular technological environment.

See Memorandum, 84 FR at 55; MPEP §§ 2106.05(a)–(c), (e)–(h).

As noted *supra*, we note that the claims recite the additional elements of one or more websites, a memory, a processor. Appellant defines “website” according to what is well known in the art, as “an Internet-based site owned and operated by an entity,” which “contain[s] a set of related web pages containing a variety of content, which is accessible from a simple Uniform Resource Locator.” Spec. ¶ 33. Appellant defines “memory” by example, as possibly including “both read only memory (‘ROM’) 465 and random access memory (‘RAM’) 467.” Spec. ¶ 67. Appellant defines “processor” by reference to examples such as “a processing element, a microprocessor, a coprocessor, a controller, a controller, or various other processing devices . . . such as an application specific integrated circuit (‘ASIC’), a field programmable gate array (‘FPGA’), a hardware accelerator, or the like.” *Id.* We determine, then, that Appellant’s disclosure of a “memory” and “processor” are similarly generic.

Appellant argues that even if the pending claims are directed to an abstract idea, the claims are directed to something more than that abstract idea so as to integrate the abstract idea into a practical application. App. Br. 28. Appellant contends that the claims (1) apply the judicial exception with,

or by use of, a particular machine; (2) add specific limitations other than what is well-understood, routine and conventional in the field; and/or (3) provide meaningful limitations beyond generally linking the use of an abstract idea to a particular technological environment. *Id.*

Appellant asserts that, as in *DDR Holdings*,³ the claimed solution is necessarily rooted in computer technology in order to overcome a problem specifically arising in the realm of computer networks. App. Br. 29–30. Appellant’s analogy of the invention to the invention in *DDR Holdings* is not persuasive. App. Br. 15–16. Appellant contends that the invention automatically generates and transmits, “at the most optimal time,” instructions that one or more users are potential problem users, the instructions automatically preventing further utilization of the websites by the identified potential problem users. We do not agree with Appellant that identifying potential problem customers or users (e.g., underage customers, compulsive gamblers), is particular to the internet, or even particular to computers. Thus, this feature of the invention does not satisfy *DDR Holdings*’ requirement of something necessarily rooted in computer technology to overcome a problem specifically arising in the realm of computer networks. *DDR Holdings*, 773 F.3d at 1253.

Appellant further contends, invoking *BASCOM*,⁴ that the invention “advantageously arranges certain known and conventional features alongside novel features in a nonconventional manner.” App. Br. 30. Appellant alleges that the claimed process avoids “delay and inefficiencies” by “timely and

³ *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014).

⁴ *BASCOM Glob. Internet Servs., Inc. v. AT&T Mobility, LLC*, 827 F.3d 1341 (Fed. Cir. 2016).

optimally” conveying electronic instructions for automatic execution. App. Br. 31–32. Appellant’s argument is not persuasive. We determined that the alleged improvements cited by Appellant are improvements to the underlying abstract idea of identifying potential problem users of websites, rather than technological improvements of a “specific and discrete” nature that go beyond well-understood, routine, and conventional activities.

Despite Appellant’s submissions, Appellant does not explain, and we find no basis for, the contention that the claimed invention involves applying the abstract idea by use of a particular machine. Appellant provides no evidence of specific limitations beyond those well-understood, routine, and conventional. We determine that Appellant’s claimed invention does not provide meaningful limitations beyond generally linking the use of an abstract idea to a particular technological environment.

In response to Appellant’s argument (App. Br. 29) that the claims do not pre-empt the abstract idea of monitoring for potential problem website users, we note that lack of preemption will not demonstrate patent eligibility. “Where a patent’s claims are deemed only to disclose patent ineligible subject matter under the *Mayo* framework, as they are in this case, preemption concerns are fully addressed and made moot.” *Ariosa Diagnostics, Inc. v. Sequenom, Inc.*, 788 F.3d 1371, 1379 (Fed. Cir. 2015).

We conclude that the claims do not recite additional elements that integrate the recited abstract idea of evaluating transaction information against norms of behavior so as to identify potential problem users of a website, and to transmit an indication of such potential problem users to one or more websites to prevent the further utilization thereof, into a practical

application under the considerations laid out by the Supreme Court and the Federal Circuit.

INVENTIVE CONCEPT

Last, we consider whether claims 1–23 express an inventive concept, i.e., whether any additional claim elements “transform the nature of the claim’ into a patent-eligible application.” *Alice*, 573 U.S. at 217 (quoting *Mayo*, 566 U.S. at 78, 79). This requires us to evaluate whether the additional claim elements add “a specific limitation or combination of limitations that are not well-understood, routine, and conventional activity in the field” or “simply append[] well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality.” Memorandum, 84 Fed. Reg. at 50, 56.

“The question of whether a claim element or combination of elements is well-understood, routine, and conventional to a skilled artisan in the relevant field is a question of fact.” *Berkheimer v. HP Inc.*, 881 F.3d 1360, 1368 (Fed. Cir. 2018). *Berkheimer* was decided on February 8, 2018, and Appellant’s Reply Brief was filed February 26, 2018.

As noted *supra*, we note that the claims recite the additional elements of a website, processor, and memory. As discussed *supra*, we find that Appellant’s Specification does not define these terms in other than generic fashion. We determine, then, that Appellant’s disclosure of a “website,” “processor,” and “memory” are similarly well-understood, routine, and conventional.

Regarding the use of the recited generic computer components identified – i.e., “website,” “processor,” and “memory” – the Supreme Court

has held that “the mere recitation of a generic computer cannot transform a patent-ineligible abstract idea into a patent-eligible invention.” *Alice*, 573 U.S. at 223. Our reviewing court provides additional guidance: *See FairWarning IP, LLC v. Iatric Sys., Inc.*, 839 F.3d 1089, 1096 (Fed. Cir. 2016) (“[T]he use of generic computer elements like a microprocessor or user interface do not alone transform an otherwise abstract idea into patent-eligible subject matter.”); *OIP Techs., Inc. v. Amazon.com, Inc.*, 788 F.3d 1359, 1363 (Fed. Cir. 2015) (claims reciting, *inter alia*, sending messages over a network, gathering statistics, using a computerized system to automatically determine an estimated outcome, and presenting offers to potential customers found to merely recite “‘well-understood, routine conventional activit[ies],’ either by requiring conventional computer activities or routine data-gathering steps” (alteration in original)). We determine from Appellant’s bare disclosure of these elements that the claimed website, processor, and memory should be considered generic computer components. As such, they cannot transform the recited patent-ineligible abstract idea into a patent-eligible invention.

Appellant has presented no argument contesting the Examiner’s characterization of any additional claim element as well-understood, routine, and conventional. Appellant has not contended that the Examiner lacked factual support for any finding that a claim element is well-understood, routine, and conventional. As a result, we determine that none of the claim elements, additional to those limitations we determined to constitute a mental process, recite a limitation or combination of limitations that are not well-understood, routine, and conventional activity in the field of website user monitoring.

SUBJECT MATTER ELIGIBILITY - CONCLUSION

We conclude that the claims recite a process of website user monitoring, which we determine to constitute a mental process, one of the categories of invention found by the courts to constitute an abstract idea.

We further conclude that the claims do not integrate the identified abstract idea into a practical application.

We further conclude that the claimed invention does not recite additional claim elements that transform the nature of the claim into a patent-eligible application of an abstract idea.

Accordingly, we sustain the Examiner's 35 U.S.C. § 101 rejection of claims 1-23.

CONCLUSIONS

1. The claimed invention recites an abstract idea.
2. The recited abstract idea is not integrated into a practical application.
3. The claims do not recite additional elements that transform the nature of the claims into a patent-eligible application of an abstract idea.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/ Basis	Affirmed	Reversed
1-23	101	Patent Eligible Subject Matter	1-23	
Overall Outcome			1-23	

ORDER

The Examiner's decision to reject claims 1-23 under 35 U.S.C. § 101 is affirmed.

TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED